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7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10 Josiah E. Marquez,

11 Plaintiff,

12 v.

13 Experian Information Solutions, Inc.;
14 LoanMe, LLC; and DOES 1 through 100
15 inclusive,

16 Defendants.

CASE NO. 3:22-cv-492

PLAINTIFF'S COMPLAINT FOR DAMAGES:

1. Violation of Fair Credit Reporting Act

17 COMES NOW Plaintiff **JOSIAH E. MARQUEZ** ("Plaintiff"), an individual, based on
information and belief, to allege as follows:

18 **INTRODUCTION**

19 1. This case arises under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §§
20 1681s-2(b), 1681e(b), 1681i(a)(2)(A), 1681i(a)(4), and 1681i(a)(5)(A). Plaintiff seeks redress for
21 the unlawful and deceptive practices committed by the Defendants in connection with their
inaccurate, misleading, or incomplete reporting of Plaintiff's debt.

22 2. Defendant LoanMe, LLC ("LoanMe") is not reporting the Plaintiff's account
23 accurately as discharged in bankruptcy.
24

1 3. The United States Congress has found the banking system is dependent upon fair
2 and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking
3 system and unfair credit reporting methods undermine the public confidence that is essential to the
continued functioning of the banking system.

4 4. A pervasive and fundamental misunderstanding presently thrives in the United
5 States regarding the long-term impact that filing a consumer bankruptcy has on the consumer's
6 creditworthiness. Specifically, consumers tend to believe that since a bankruptcy can be reported
7 on their credit report for ten (10) years, their creditworthiness will be ruined for the same length
of time. This is not true.

8 5. The *majority* of consumer debtors file a consumer bankruptcy to *raise* their FICO
9 Score and remedy their poor creditworthiness.

10 6. In fact, it is possible for consumer debtors to obtain a 700 FICO Score as soon as
twelve (12) months from filing a consumer bankruptcy (Chapter 7 or Chapter 13).

11 7. Creditors and lending institutions are aware of the misconception that filing a
12 consumer bankruptcy destroys the consumer's creditworthiness of ten (10) years; however, to
13 perpetrate this bankruptcy myth, creditors intentionally and routinely ignore both industry
14 standards and FCRA requirements for accurately reporting bankruptcies, as well as the debts
included in those bankruptcies, to keep consumers' credit scores low and their interest rates high.

15 8. Creditors know that deviating from recognized credit reporting standards and
16 FCRA requirements will make it difficult for consumers to raise their credit scores and improve
their creditworthiness.

17 9. This was not the intent of Congress when it enacted the Fair Credit Reporting Act
18 and the Bankruptcy Abuse Prevention and Consumer Protection Act.

JURISDICTION & VENUE

19 10. Plaintiff re-alleges and incorporates the allegations in each and every paragraph
20 above by reference as if fully stated herein.

21 11. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337, 1367, and 15 U.S.C. §
1681.

22 12. This venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

23 13. Plaintiff alleges that, for purposes of establishing residency under 28 U.S.C. §
24 1391(b)(1), each of the named Defendants conducts sufficient business within the forum state and

1 this Court has personal jurisdiction over each Defendant under 28 U.S.C. §§ 1391(c)(2) and
2 1391(d).

3 GENERAL ALLEGATIONS

4 14. Plaintiff alleges that the LoanMe account was included in his Chapter 7 bankruptcy
5 filing in that the debt occurred pre-petition and was subsequently discharged and fully satisfied.

6 15. Plaintiff alleges that it is patently incorrect and misleading for a debt which was
7 discharged and satisfied to be reported on a credit report with a past due current payment status as
8 this reporting makes it appear as if the debt is past due instead of discharged.

9 16. Plaintiff alleges that each and every Defendant is familiar with FCRA requirements
10 and subscribes thereto.

11 17. Plaintiff alleges that each and every Defendant understands that deviation from the
12 FCRA requirements or credit reporting industry standards can, and often does, result in the denial
13 of credit, higher interest rates, and prompts a negative inference that would not be drawn if the
14 data were reported in accordance with the recognized standards.

15 18. Plaintiff alleges that all of Defendants' actions alleged herein were committed
16 knowingly, intentionally, and in reckless disregard of the unambiguous meaning of the FCRA,
17 regulatory guidelines on accurate reporting, and credit reporting industry standards to purposefully
18 undermine Plaintiff's ability to repair his Credit Score.

19 19. In the alternative, Plaintiff alleges that each and every Defendants' actions were the
20 result of negligent policies, procedures, and an objectively unreasonable interpretation of the
21 FCRA, all which inevitably led to inaccurate, misleading, or incomplete credit reporting.

22 FACTUAL BACKGROUND

23 20. Plaintiff re-alleges and incorporates the allegations in each and every paragraph
24 above by reference as if fully stated herein.

25 A. FICO, Inc.

26 21. FICO is a leading analytics software company with its principal headquarters in
27 San Jose, California. FICO has over 130 patents related to their analytics and decision management
28 technology and regularly uses mathematical algorithms to predict consumer behavior, including
29 credit risk.

1 22. The FICO Score has become the standard measure of consumer credit risk in the
2 United States and is used in ninety percent (90%) of lending decisions.¹

3 23. A FICO Score consists of a three-digit number summarizing a consumer's credit
4 risk or likelihood to repay a loan. FICO periodically updates its scoring models resulting in
5 multiple FICO Score versions.

6 24. Base FICO Scores range from 300 to 850, while industry specific FICO Scores
7 range from 250-900. A higher FICO Score demonstrates lower credit risk or less likelihood of
8 default.

9 25. Different lenders use different versions of FICO Scores when evaluating a
10 consumer's creditworthiness.

11 26. There are twenty-eight (28) FICO Scores that are commonly used by lenders.

12 27. A consumer's FICO Score is calculated based solely on information in consumer
13 credit reports maintained at credit reporting agencies ("CRAs").

14 28. The three largest CRAs are Experian Information Solutions, Inc. ("Experian");
15 Equifax Information Services, LLC ("Equifax"); and TransUnion, LLC ("TransUnion").

16 29. FICO does not control what information is provided on a consumer's credit report.
17 Instead, the scoring models, or algorithms, are based on the premise that the information provided
18 by the CRAs is accurate and complies with both the FCRA requirements and credit reporting
19 industry standards.

20 30. There are five (5) key factors that a FICO Score considers: (1) payment history; (2)
21 amount of debt; (3) length of credit history; (4) new credit; and (5) credit mix.

22 31. Each of the five (5) factors is weighted differently by FICO.

23 32. In other words, thirty-five percent (35%) of a consumer's FICO Score relates to
24 payment history, thirty percent (30%) relates to the amount of debt, fifteen percent (15%) relates
to the length of credit history, ten percent (10%) relates to new credit, and the final ten percent
(10%) relates to a consumer's credit mix, which is the different types of debts reported.

 33. Payment history refers to whether a consumer has paid their bills in the past, on
time, late, or missed payments. The more severe, recent, or frequent the late payment information,

¹ While there are other credit scoring models, it is well established that FICO Score is by far the most widely used by lenders, employers, insurance companies, and lessors. See <https://www.myfico.com> (a website created and operated by Fair Isaac Corporation ("FICO"), "the company that invented the FICO credit score").

1 the greater the impact on a FICO Score. Public record items, such as bankruptcy, foreclosure,
2 judgments, and wage garnishments are also considered part of a consumer's payment history.

3 34. In factoring the severity of delinquent payments, a FICO Score considers how late
4 the payment continues to be, how much is owed, how recently this occurred, and how many
5 delinquent accounts exist.

6 35. Once a delinquent account has been remedied, the longer the account stays current
7 the more a consumer's FICO Score should increase.

8 36. FICO Scores are entirely dependent upon information provided by data furnishers
9 ("DFs"), such as banks and other financial institutions, to CRAs.

10 37. A FICO Score is a summary of your credit report. In simple terms, the FICO Score
11 is calculated by taking the five (5) factors (payment history, amount of debt, length of credit
12 history, new credit, and credit mix) for each account in a credit report and calculating a three digit
13 number for lenders to review. "When you apply for credit, lenders need a fast and consistent way
14 to decide whether or not to loan you money." *See* <https://www.myfico.com/credit-education/what-is-a-fico-score>. If a lender or employer did look past the FICO Score into a consumer's reports,
15 chances are they either do not understand the tradeline meanings themselves, or, if they do and
16 realize something appears incorrect, they are incapable of recalculating the complex mathematical
17 algorithms in a FICO Score to take the found error into consideration. Therefore, most lenders and
18 employers do not review individual accounts, just a consumer's FICO Score (or average of FICO
19 Scores) in order to make "quicker decisions". *See id.*

20 38. Some lenders also use internal scoring models. In these instances, the lenders
21 attempt to produce their own "FICO Score" based upon their internal credit scorecard models.
22 These models are, similar to FICO, based upon algorithms, business rules, codes, etc. and take
23 information reported in the credit reports and assign weights to them in order to assess risk and
24 make determinations as to consumer's creditworthiness. FICO Scores and the scores based off
internal models being collectively referred to as "Credit Score".

B. Metro 2

39. The Consumer Data Industry Association ("CDIA") is an international trade
association representing the consumer credit, mortgage reporting, employment and tenant
screening, and collection services industries.

1 40. The credit reporting industry has adopted a standard electronic data reporting
2 format called the Metro 2 format. The Metro 2 format was developed by CDIA to universally
report debts in a particular manner.

3 41. The CDIA's Metro 2 format is the credit reporting industry standard for credit
4 reporting. While CDIA's Metro 2 format is intended to standardize credit reporting, this standard
5 is still subject to the FCRA's requirement of *maximum possible accuracy and completeness*.

6 42. The credit reporting industry at large depends upon the Metro 2 format and the
CDIA's recommendations for reporting debt.

7 43. The CDIA is experienced in credit reporting. In support of this allegation, Plaintiff
8 avers the following:

- 9 a. The CDIA offers a FCRA certificate program for all CRAs.
- 10 b. The CDIA offers a FCRA awareness program for all CRAs.
- 11 c. The CDIA offers a FCRA certificate program for DFs.
- 12 d. The CDIA offers a FCRA awareness program for DFs.
- 13 e. The CDIA offers a Metro 2 learning system to provide detailed instructions on the
14 use of Metro 2 format to ensure understanding of the reporting guidelines for each
15 field of the Metro 2 format as well as the relationship between multiple fields.
- 16 f. The CDIA hosts workshops developed and authorized by Equifax, Experian,
17 Innovis, and TransUnion.
- 18 g. The CDIA developed a credit reporting resource guide for reporting credit.

19 44. The CDIA's Metro 2 format is accepted by all CRAs.

20 45. When FICO calculates credit scores, the algorithms use Metro 2 information based
21 on industry standards established by the CDIA.

22 46. The algorithms used by FICO in determining a consumer's credit score are
23 premised on the Metro 2 data received comporting with the CDIA's recommendations for accurate
24 credit reporting.

 47. If the Metro 2 data received by FICO deviates from the FCRA requirements or
industry standards, an inaccurate or incorrect FICO Score results. If the resulting FICO Score is
lower, a consumer will be considered a higher credit risk resulting in less favorable lending terms.

C. e-OSCAR

48. e-OSCAR is the web-based, Metro 2 compliant system developed by Experian, Equifax, TransUnion, and Innovis that enables DFs and CRAs to create and respond to consumer credit disputes.

49. When a consumer sends a dispute letter to a CRA, the CRA then sends an automated credit dispute verification (“ACDV”) via e-OSCAR to the appropriate DF.

50. The ACDV contains within it Metro 2 codes next to certain data fields associated with a credit file e.g., “Account Type” “07” (07 in Metro 2 refers to a Charge Account).

51. When a data furnisher reports on a consumer’s account as part of its regular reporting, it sends a regular monthly transmission to each CRA.

52. When a data furnisher reports on a consumer’s account outside of its regular monthly transmission, it sends an automated universal dataform (“AUD”) to each CRA.

53. For clarification, an AUD, or other regular transmission, is sent when the data furnisher initiates reporting on a consumer’s account (e.g., opening an account, updating the account each month, closing an account, etc.), whereas an ACDV is how a data furnisher receives a dispute request from the CRAs and how it updates reporting back to the CRAs after its investigation of the matter.

D. Bankruptcy Credit Reporting Industry Standards & Consumer Information Indicator

54. When a consumer files bankruptcy, certain credit reporting industry standards exist.

55. Certain Metro 2 data is regularly expected and calculated by FICO when determining a consumer’s creditworthiness.

56. The Consumer Information Indicator (“CII”) is a critical field in the Metro 2 format that indicates a special condition that applies to a specific consumer.

57. Under Metro 2, the CII must be reported on only the consumer to whom the information applies.

58. It is the credit reporting industry standard to report a very specific CII upon the filing of a consumer bankruptcy.

59. In the consumer bankruptcy context, CII Metro 2 Code “A” denotes that a petition for Chapter 7 has been filed and is active, but no discharge has been entered.

1 60. CII Metro 2 Code “D” indicates that a Chapter 13 petition has been filed and is
2 active, but no discharge has been entered. This is usually translated on a consumer credit report as
3 “Wage Earner Plan” or “WEP” in the “Account Status” portion of a tradeline. Such reporting alerts
4 any potential lender that the account is no longer in a collectable status and is being handled by a
Chapter 13 trustee.

5 61. The CII Metro 2 Code “Z” indicates that a bankruptcy petition has been filed, but
6 the chapter is undesignated/unknown.

7 62. The CII Metro 2 Code “E” denotes that a Chapter 7 bankruptcy has been
8 discharged.

9 63. The CII Metro 2 Code “H” denotes that a Chapter 13 bankruptcy has been
10 discharged. In addition, post discharged balances and past due balances should be updated to
reflect zero (0) balances. The payment history should also not reflect missed payments moving
forward.

11 64. The CII Metro 2 Code “R” denotes reaffirmation of a debt. In addition, completely
12 reaffirmed debts should report appropriate Account Status and account information as it applies
going forward.

13 65. The CII field is a critical field for consumers as it directly relates and impacts a
14 consumer’s creditworthiness.

15 66. The lack of a CII reported makes it appear that a consumer has not addressed
outstanding debt obligations through the bankruptcy process.

16 67. Furthermore, the lack of a CII reported suggests that creditors are free to collect
17 against a consumer as an individual, or that no stay exists to prevent in personam collection
activity.

18 68. Failure to report the correct CII indicator will prompt those making credit decisions
19 to draw a more negative inference than if the appropriate CII indicator were reported.

20 69. The FCRA permits a bankruptcy to be reported for ten (10) years from the date the
bankruptcy was filed.

21 70. A consumer’s FICO Score is directly related to the date on which a petition is filed
22 and acknowledged.

23 71. The bankruptcy’s impact on a consumer’s FICO Score lessens with the passage of
24 time.

72. Accordingly, the failure to reference the bankruptcy filing (CII field) and/or the correct petition date results in a lower FICO Score, which in turn causes credit decision makers to draw a more negative inference regarding a consumer's creditworthiness.

E. Plaintiff Filed Bankruptcy and Received a Discharge

73. Plaintiff filed a voluntary petition for Chapter 7 bankruptcy on May 22, 2021, in order to repair his creditworthiness and Credit Score.

74. The Chapter 7 Trustee entered its report of No Distribution (no asset case) on June 30, 2021.

75. Plaintiff's bankruptcy was discharged on August 17, 2021.

F. Plaintiff's Credit Report Contains Inaccurate Adverse Tradelines, which Plaintiff Disputed to no Avail

76. On October 18, 2021, Plaintiff ordered a three-bureau credit report from Experian to ensure proper reporting by Plaintiff's creditors (the "October 18 Credit Reports").

77. Plaintiff noticed an adverse tradeline in his October 18 Credit Reports, reporting inaccurate, misleading, or incomplete information that did not comply with FCRA standards.

78. Plaintiff then disputed the inaccurate tradeline regarding the LoanMe account via certified mail to Experian on or about November 2, 2021 (the "Dispute Letter").

79. Plaintiff's Dispute Letter specifically put LoanMe on notice that he filed for Chapter 7 bankruptcy and received a discharge and the reporting should be updated.

80. Plaintiff's Dispute Letter also detailed what was perceived to be problematic about the account, addressing each tradeline individually.

81. Plaintiff requested that any derogatory reporting be updated to ensure accuracy and completeness of the account as required by the FCRA.

82. Plaintiff is informed and believes that Experian received Plaintiff's Dispute Letter and, in response, sent Plaintiff's dispute to LoanMe, as the data furnisher, via an ACDV through e-OSCAR.

83. On December 13, 2021, Plaintiff ordered a second three-bureau credit report from Experian to determine if his account was updated.

a. Inaccuracy – LoanMe

84. Despite actual knowledge, LoanMe continued to report Plaintiff's account, beginning in 296686X, to Experian with a current payment status of "Past due 90 days" and

1 without notice of the bankruptcy discharge. This tradeline is patently inaccurate as the account was
2 discharged in bankruptcy.

3 85. Plaintiff alleges that LoanMe did not investigate whether Plaintiff filed for
4 bankruptcy.

5 86. LoanMe did not update the tradeline to reflect that Plaintiff obtained a discharge in
6 bankruptcy.

7 87. Experian provided notice to LoanMe that Plaintiff was disputing the inaccurate and
8 misleading information, but LoanMe failed to conduct a reasonable investigation of the
9 information as required by the Fair Credit Reporting Act.

10 88. Based upon Plaintiff's dispute, LoanMe should have known that Plaintiff received
11 a discharged in his bankruptcy proceedings.

12 89. The most basic investigation would include a simple review of its reporting in light
13 of the fact that Plaintiff filed a Chapter 7 bankruptcy and received his discharge in order to
14 determine if the reporting complies with the maximum possible accuracy and completeness
15 standard of the FCRA.

16 90. Plaintiff alleges that LoanMe did not review if its reporting complied with the
17 unambiguous language of the FCRA, regulatory guidelines on accurate reporting under the FCRA,
18 or its own internal records concerning Plaintiff's account.

19 91. If LoanMe reviewed such standards, or its own internal records regarding Plaintiff's
20 account, LoanMe would have seen that its reporting was not in compliance and was therefore
21 patently inaccurate or incomplete.

22 92. LoanMe should have updated the tradeline to CII to Metro 2 Code "E" to reflect
23 the debt was discharged in Plaintiff's Chapter 7 bankruptcy and removed the past due payment
24 status.

93. By continuing to report Plaintiff's account to Experian as described in paragraph
84, it incorrectly appears to third parties viewing Plaintiff's credit report that the account was not
discharged in bankruptcy but is still owed and collectible, which is inaccurate.

94. Further, as this inaccurate reporting is being used to calculate Plaintiff's Credit
Score, the Credit Score alone being what most lenders and employers use to determine Plaintiff's
creditworthiness, it is misleading in such a way as to adversely affect credit decisions.

95. As payment history (including payment status) makes up thirty-five percent (35%) of a consumer's FICO Score, and as most lenders approve or deny credit based on a consumer's Credit Score (as opposed to poring through each tradeline of every account listed to obtain context), the incorrect payment status and payment history reported by LoanMe on the account is lowering Plaintiff's credit score, which adversely affects Plaintiff's ability to obtain credit.

96. The lack of investigation and reporting of inaccurate and incomplete information by LoanMe is unreasonable.

Damages

97. Plaintiff pulled the credit reports at issue at a cost for access to the report, after the dispute process, specifically for the sole purpose of verifying that the inaccuracies were fixed.

98. As a result of the incorrect reporting, Plaintiff has incurred out-of-pocket expenses, and has also suffered emotional harm, physical sickness, and excessive stress resulting in doubt as to the effectiveness of the Bankruptcy Code, the Fair Credit Reporting Act, and the power of this Court to preserve and perpetuate a fresh start as intended by Congress.

99. Plaintiff has been denied credit and is unable to rebuild his credit based on the inaccurate reporting by LoanMe. Plaintiff's low Credit Score, resulting from LoanMe's inaccurate reporting, has caused him to abandon his intentions to apply for certain credit

100. LoanMe's actions, as alleged herein, are each in direct violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681.

FIRST CAUSE OF ACTION

(Violation of Fair Credit Reporting Act 15 U.S.C. § 1681e(b))

(Against Defendants and Does 1-100)

101. Plaintiff re-alleges and incorporates the allegations in each and every paragraph above by reference as if fully stated herein.

A. Experian Failed to Assure Credit Reporting Accuracy

102. Experian violated 15 U.S.C. § 1681e(b) by failing to establish and/or follow reasonable procedures to assure maximum possible accuracy in the preparation of Plaintiff's credit reports and the credit files it published and maintained concerning Plaintiff.

103. Had Experian maintained reasonable procedures to assure maximum accuracy, it would have never reported the LoanMe account as described herein.

1 104. Experian knew, or should have known, (1) that the LoanMe account was discharged
2 in bankruptcy, and (2) that the account should not have been reported with a current payment status
3 of “Past due 90 days” as the debt was discharged. Further, Experian knew, or should have known,
4 that this inaccurate and incomplete tradeline does not reflect *maximum possible accuracy and*
completeness as required by the FCRA.

5 105. Congress specifically recognized the “elaborate mechanism developed for
6 investigating and evaluating credit worthiness, credit standing, credit capacity, character, and
7 general reputation of consumers.”² The investigation and evaluation of Plaintiff’s credit
8 worthiness, credit standing, credit capacity, character and general reputation as a consumer are all
damaged by the reporting that Experian allowed.

9 106. As a result of Experian’s violations of 15 U.S.C. § 1681e(b), Plaintiff suffered
10 actual damages, including but not limited to: damage to reputation, embarrassment, humiliation,
11 dissemination of inaccurate information, diminished credit and other mental and emotional
distress.

12 **B. Willful Violations**

13 107. Experian’s violations, as described herein, were willful; specifically, Experian has
14 intentionally and purposefully set up a system where inaccuracies are not only probable, but
inevitable.

15 108. Experian regularly, as a policy, ignores disputes by consumers and fails to perform
16 even a basic investigation regarding the disputes. Additionally, Experian regularly fails to forward
disputes to data furnishers, thereby frustrating the entire dispute process.

17 109. To the extent Experian does send consumer disputes, it sends these disputes to
18 employees who do not live within the continental United States to hide or subvert a consumer’s
liability to confront the individual(s) directly responsible for approving accurate reporting.

19 110. Experian’s employees receive little to no training concerning how to accurately
20 report consumer debt.

21 111. Instead, Experian’s employees are instructed to parrot whatever information a data
22 furnisher provides regardless of whether the information is accurate.

23
24

² *Nayab v. Capital One Bank (USA), NA*, 942 F. 3d 480, 492 (9th Cir. 2019).

1 112. Experian's employees are regularly expected to review and approve over ninety
2 (90) disputes per day, rendering less than five (5) minutes to review, investigate, and respond to
3 each dispute received.

4 113. Experian has intentionally set up this system in order to undermine, hide, and
5 otherwise frustrate consumers' ability to properly dispute and correct credit reports.

6 114. As a result of Experian's violations of 15 U.S.C. § 1681e(b), Plaintiff suffered
7 actual damages, including, but not limited to: damage to reputation, embarrassment, humiliation,
8 dissemination of inaccurate information, diminished credit, and other mental and emotional
9 distress.

10 115. Experian's violations were willful, rendering it liable for punitive damages in an
11 amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

12 116. In the alternative, Experian was negligent, which entitles Plaintiff to recover under
13 15 U.S.C. § 1681o.

14 117. Plaintiff is entitled to recover actual damages, statutory damages, costs, and
15 attorneys' fees from Experian in an amount to be determined by this Court pursuant to 15 U.S.C.
16 § 1681n and § 1681o.

17 **SECOND CAUSE OF ACTION**

18 **(Violation of Fair Credit Reporting Act 15 U.S.C. §§ 1681s-2(b) and 1681i(a)(1))**

19 **(Against Defendants and Does 1-100)**

20 118. Plaintiff re-alleges and incorporates the allegations in each and every paragraph
21 above by reference as if fully stated herein.

22 **A. LoanMe Failed to Reinvestigate Following Plaintiff's Dispute**

23 119. Pursuant to 15 U.S.C. §§ 1681s-2(b), data furnishers are prohibited from providing
24 any information relating to a consumer to any CRA if it knows, or has reasonable cause to believe,
that the information is inaccurate or misleading and requires data furnishers to update and/or
correct inaccurate information after a CRA notifies it of a consumer dispute.

120. After receiving notice that Plaintiff filed for Chapter 7 bankruptcy, LoanMe sent an
AUD or monthly transmission to Experian reporting Plaintiff's account as past due and without
notation of the bankruptcy.

121. After receiving notice of the bankruptcy discharge, LoanMe did not update the
incorrect reporting to Experian.

1 122. After receiving the Dispute Letter, LoanMe did not correct the payment status with
2 Experian. Instead, LoanMe verified and re-reported the current payment status as “Past due 90
3 days” via ACDV to Experian.

4 123. The payment status reported in an AUD, monthly transmission, or ACDV
5 represents the status of the account at the time of sending the AUD, monthly transmission, or
6 ACDV, and is not a historical contractual item (i.e., monthly payment, highest balance, payment
7 history, etc.). Therefore, even in the event the account was previously past due, if at all, it has no
8 bearing on its *current* pay status after the account was discharged in bankruptcy.

9 124. LoanMe violated 15 U.S.C. § 1681s-2(b) by either failing to conduct an
10 investigation or failing to conduct a reasonable investigation, and re-reporting misleading and
11 inaccurate account information.

12 125. Experian provided notice to LoanMe that Plaintiff was disputing the inaccurate and
13 misleading information; however, LoanMe either failed to conduct any investigation or failed to
14 conduct a reasonable investigation as required by the FCRA.

15 126. Based on Plaintiff’s dispute, review of its internal records on the account, LoanMe
16 should have known its account was discharged in bankruptcy and fully satisfied and ceased its
17 inaccurate reporting.

18 127. Reporting a discharged debt with a current payment status of past due is patently
19 incorrect.

20 128. In addition, this inaccurate reporting also adversely affects credit decisions. This
21 inaccurately reported account is being considered when calculating Plaintiff’s Credit Score. Most
22 lenders, employers, and other individuals who access a consumer’s credit report approve or deny
23 credit or employment based upon the reported Credit Score and do not take the time to look through
24 each tradeline of every account listed to obtain context. Therefore, LoanMe’s reporting as
described herein has a direct adverse effect on Plaintiff’s Credit Score and his ability to rebuild his
Credit Score and obtain new credit.

 129. In the alternative, even if a credit reviewer did look at the tradeline, it would be
misled as LoanMe’s reporting makes the account appear to be past due and not discharged.
LoanMe’s reporting is patently incorrect and misleading as it does not reference the bankruptcy
discharge.

 130. The lack of investigation by LoanMe as required by the FCRA, is unreasonable.

B. Willful Violations

131. Plaintiff alleges that LoanMe has reported based upon objectively unreasonable interpretations of the FCRA standards of credit reporting and regulatory guidelines on how to accurately report under the FCRA.

132. Plaintiff further alleges that LoanMe has not properly trained those directly investigating disputes on FCRA requirements or credit reporting industry standards and, as such, has developed reckless policies and procedures.

133. Plaintiff alleges that rather than train its employees on accurate credit reporting, FCRA requirements, and industry standards, LoanMe's employees tasked with reviewing disputes are expected to confirm the information being reported as "accurate" instead of investigating the reporting.

134. In the alternative, LoanMe was negligent, which entitles Plaintiff to recover under 15 U.S.C. § 1681o.

C. Experian Failed to Reinvestigate the Disputed Information in violation of 15 U.S.C. § 1681i(a)(1)

135. Pursuant to 15 U.S.C. 1681i(a)(1), Experian was required to conduct a reasonable investigation and to delete any information that was not accurate after receiving notice of Plaintiff's disputes regarding the LoanMe account.

136. Thus, Experian failed to conduct a reasonable investigation and correct the misleading and/or inaccurate statements on the account within the statutory time frame.

137. Experian is not a passive entity bound to report whatever information a data furnisher provides.

138. Plaintiff alleges Experian is readily familiar with FCRA requirements and credit reporting industry standards.

139. Based on the foregoing, Plaintiff alleges that Experian can, and does, suppress inaccurate information from being reported when data furnishers provide inaccurate information.

140. Experian can and does instruct data furnishers on how to properly report certain accounts from time to time upon request from a data furnisher.

141. Experian failed to conduct a reasonable investigation because any basic investigation would have uncovered that LoanMe was not reporting its account at issue correctly.

142. Had Experian conducted a proper investigation, it could have closed or bookended the LoanMe debt by adding a notation on the credit report to show that the debt was in fact discharged in bankruptcy and removed the past due payment status. However, Experian continued to report the account as described herein.

143. Experian, therefore, did not conduct even the most basic investigation regarding credit reporting industry standards, otherwise the aforementioned would have been uncovered.

144. In the alternative, Plaintiff alleges that Experian did not send an ACDV to LoanMe to confirm accurate reporting on its account. Despite receiving the Dispute Letter providing notice of the inaccuracies, Experian did not delete or correct the tradeline or conduct an investigation.

145. In the alternative, if Experian deemed Plaintiff's Dispute Letter "frivolous or irrelevant" under 15 U.S.C. 1681i(a)(3), Experian failed to notify Plaintiff of such determination as required by 15 U.S.C. 1681i(a)(3)(B). As Plaintiff received no such notice from Experian, Plaintiff alleges Experian deemed his Dispute Letter valid, and thus triggered its obligations under 15 U.S.C. 1681i(a)(1) and (2)(A), for which it did not comply.

THIRD CAUSE OF ACTION

(Violation of Fair Credit Reporting Act 15 U.S.C. § 1681i(a)(4))

(Against Defendants and Does 1-100)

146. Plaintiff re-alleges and incorporates the allegations in each and every paragraph above by reference as if fully stated herein.

A. Experian Failed to Review and Consider all Relevant Information

147. Experian violated 15 U.S.C. § 1681i(a)(4) by failing to review and consider all relevant information submitted by Plaintiff.

148. Experian's violations of 15 U.S.C. § 1681i(a)(4) have caused Plaintiff to suffer actual damages, including, but not limited to: damage to reputation, embarrassment, humiliation, and other mental and emotional distress.

B. Willful Violations

149. Experian's violations were willful, rendering it liable for punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

150. In the alternative, Experian was negligent in failing to review and consider all relevant information Plaintiff submitted, which entitles Plaintiff to recovery under 15 U.S.C. § 1681o.

1 151. Plaintiff is entitled to recover actual damages, statutory damages, costs, and
2 attorneys' fees from Experian in an amount to be determined by the Court pursuant to 15 U.S.C.
3 § 1681n and § 1681o.

4 **FOURTH CAUSE OF ACTION**

5 **(Violation of Fair Credit Reporting Act 15 U.S.C. § 1681i(a)(5)(A))**

6 **(Against Defendants and Does 1-100)**

7 152. Plaintiff re-alleges and incorporates the allegations in each and every paragraph
8 above by reference as if fully stated herein.

9 **A. Experian Failed to Delete Disputed and Inaccurate Information**

10 153. Experian violated 15 U.S.C. § 1681i(a)(5)(A) by failing to promptly delete the
11 disputed inaccurate items of information from Plaintiff's credit file or modify the item of
12 information upon a lawful reinvestigation.

13 154. Experian's violations of 15 U.S.C. § 1681i(a)(5)(A) have resulted in Plaintiff
14 suffering actual damages, including, but not limited to: damage to reputation, embarrassment,
15 humiliation, and other mental and emotional distress.

16 **B. Willful Violations**

17 155. Experian's violations were willful, rendering it liable for punitive damages in an
18 amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

19 156. In the alternative, Experian was negligent, which entitles Plaintiff to recovery under
20 15 U.S.C. § 1681o.

21 157. Plaintiff is entitled to recover actual damages, statutory damages, costs, and
22 attorneys' fees from Experian in an amount to be determined by the Court pursuant to 15 U.S.C.
23 § 1681n and § 1681o.

24 **PRAYER FOR RELIEF**

 158. WHEREFORE, Plaintiff prays for judgment as follows:

- a. For preliminary and permanent injunctive relief to stop Defendants from
engaging in the conduct described above;
- b. Award statutory and actual damages pursuant to 15 U.S.C. § 1681n;
- c. Award punitive damages in order to deter further unlawful conduct pursuant to
15 U.S.C. § 1681n;

- 1 d. Award attorneys' fees and costs of suit incurred herein pursuant to 15 U.S.C.
2 §§ 1681n and 1681o;
3 e. For determination by the Court that Defendant's policies and practices are
4 unlawful and in willful violation of 15 U.S.C. § 1681n, *et seq.*; and
5 f. For determination by the Court that Defendant's policies and practices are
6 unlawful and in negligent violation of 15 U.S.C. § 1681o.

7 Respectfully submitted,

8 **SCHUMACHER LANE PLLC**

9 Dated: January 25, 2022

/s/ Kyle Schumacher

Kyle Schumacher

Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of this matter by jury.

SCHUMACHER LANE PLLC

Dated: January 25, 2022

/s/ Kyle Schumacher

Kyle Schumacher

Attorney for Plaintiff